

**BOARD OF VARIANCES AND APPEALS
REGULAR MEETING
JULY 11, 2013**

(Approved: 7/25/2013)

CALL TO ORDER

The meeting of the Board of Variances and Appeals (Board) was called to order by Chairman Rick Tanner at approximately, 1:30 p.m., Thursday, July 11, 2013, in the Planning Department Conference Room, first floor, Kalana Pakui Building, 250 South High Street, Wailuku, Island of Maui.

A quorum of the Board was present. (See Record of Attendance.)

Chairman Rick Tanner: The meeting of the Board of Variances and Appeals will now come to order. Let the record show it is now 1:30 p.m. and we have a quorum. We're gonna start this meeting with public testimony for any of those who would like to speak on any agenda item now that cannot wait for the item to come up. You'll be allowed three minutes to speak on that item, but you will not be allowed to come back and speak once the item comes up again. So you can do it now or wait for the item to come up. Is there anyone who would like to speak at this time?

Unidentified Speaker in the Audience: You said we're not allowed to speak . . . (inaudible) . . . ?

Chairman Tanner: Correct.

Unidentified Speaker in the Audience: So this is the only time we can speak?

Chairman Tanner: No. If you wanna wait for the item to come up, you can wait till then and you'll have an opportunity to speak. OK. So seeing none, we'll close that portion of it. And we'll ask staff to read the first item on the agenda into the record.

B. PUBLIC HEARINGS

1. **STANFORD CARR DEVELOPMENT, LLC for KEHALANI 511-MAUI, LLC requesting a variance from Maui County Code, §16.26.106.4.4 which restricts permittees to a total of two (2) 180-day time extensions for building permits (B 2010/0689-0691, 0693-0703) for The Villas at Kehalani located off of Awela Circle, Pohina and Laukona Streets, Wailuku, Maui, Hawaii; TMK: (2) 3-5-001:074 (CPR No.'s 0010-0019, 0055-0061, 0073-0103) (BVAV 20130009).**

Ms. Trisha Kapua`ala read the agenda item into the record.

Ms. Kapua`ala: I have an aerial view that I can show the Board. I think I'm gonna need the applicant to help me, though, because I don't think the imagery is current.

Chairman Tanner: If the applicant would go ahead, and come up, and state your name to the microphone for the record?

Mr. Rick Papa: Hello. Rick Papa with Stanford Carr Development. I'm the project manager.

Ms. Kapua`ala: So this is not the property. It's not the one that's highlighted at the moment. Let me show you a TMK map instead. This is the TMK map of the area. And my cursor is showing you Honoapiilani Highway. So this is mauka and this is makai. And this is the Kehalani Mauka Development. The parcel is no. 74 which is here.

Mr. Papa: Then it actually needs to rotate like 90 degrees.

Ms. Kapua`ala: I cannot rotate. Well, let's try this. How's that? Is that easier?

Mr. Papa: Yeah, that's actually more how we are oriented on the back going up the mountainside. You have an aerial for that?

Ms. Kapua`ala: OK. Here is the same area. Honoapiilani Highway is here. So the parcel would be 67.

Mr. Papa: That's right in here.

Ms. Kapua`ala: So Pohina Street.

Mr. Papa: In our submission . . . That's it, right there.

Ms. Kapua`ala: OK. So this imagery is from August 6, 2011. And is this what exists today?

Mr. Papa: Actually, no. This represents the 12 buildings that were completed the last time I came before this committee. And at that point, we were looking to extend permits on Building 10, 11, and 12. We had foundation work about 80% complete on 10; 80% on 11; and initial footing work on 12. Since that extension was granted at that point, we actually went back and met with our investor. And in fact, we released not only these three buildings, but we also released 16, 17, and 18 for complete vertical construction, which represents one-third of the remaining units to be completed in the project. Currently, Building 10 is framed through the roof and the exterior skin is going on. Building 11 has been completely framed through the roof. And the foundation for 12 is now in the same state that you see right here, and Building 11. And Building 16, we're starting framing, first floor framing. And work on 17 and 18 foundation and footing work is in process, as well as at this last quarter, at the end of June, we got the OK to release and proceed on the foundation work for 22, 23, and 24. So we'll be starting to grub these lots and we'll work them into our sequence. So in fact, our current application was for 14 buildings. And two of those buildings are covered in what is active under construction which is 17 and 18. And then these three buildings now fall into . . . we'll be starting work on those in the near future, which then leaves us nine buildings: three in this front area and six across the back of the project. And the current build-out for the project is three years to be complete. And that's kind of where we are on target, and every quarter we're reviewing the progress of construction and our sales and marketing. And we feel that probably, 22, 23, and 24 will get a release for vertical probably at the end of the third quarter or early first quarter . . . or early fourth quarter this year. So we would see vertical construction start on those at the end of first quarter 2014. So there definitely is a commitment from the project side and the financing side to build this thing out within the next three years. And the reason it's a three-year sequence is with the amount of units to build and the duration is about ten months per building.

Ms. Kapua`ala: Thank you for helping me.

Mr. Papa: And I guess we provided a packet. In the packet that we provided, we gave you a site map. Since we submitted a few months ago, there have been some slight updates to it and that's kind of what I reviewed.

Ms. Kapua`ala: Mr. Chair, we also have a member from the Department of Public Works here, the Supervising Building Plans Examiner that represents this application's analysis.

Chairman Tanner: Was it Greg?

Mr. Papa: Rick.

Chairman Tanner: Rick. OK. That should be easy enough for me. So my understanding is the reason for the delays in the project is just simple economics of the economy, and the needing to sell the product once you built it.

Mr. Papa: Correct. Well, actually, we're out selling the project.

Chairman Tanner: Now?

Mr. Papa: Yeah. Well, what had happened is unfortunately due to the world and the way it was, the cost of construction increased and the selling price decreased. And until we could get to a point where they at least broke even, there was a . . . the project was put on hold. And we were on hold for about 18 months to two years while we were actively working with the current subcontractors that were on the project as well as trying to look at ways that we could keep continuing to build the same product that we had previously built and do it for a reasonable cost. And we got a lot of buy-in from the subcontractors to hold pricing. And every time you go get a project, you're subject to somebody coming back and saying, hey, three months has passed or six months has passed. We have to deal with this. A lot of guys have partnered with us in the sense that said, look, we wanna build this thing out because we wanna put our people to work. And that's how we got there to release the last six buildings. And I think when I was here before, we were only hoping to get three at once. And because of the support from the subcontractors and our partners, we were able to capitalize . . . look, can we get six buildings going? And that's what we've proceeded on doing. And subsequent releases will happen in groups of three with the foundation work getting released first. So we'll have some activity. And then subsequent to that, we'll roll right into it with the vertical construction.

Chairman Tanner: I apologize. I need to step back a second and ask you a question. The applicant, Rick, are you agreeable to the waiving of the reading of the staff report, which you have a copy of?

Mr. Papa: Sure.

Chairman Tanner: OK. And so that's part of the record.

Mr. Papa: We understand that the staff is very supportive of the process, and everybody has

worked with us along the way as far as inspecting and trying to keep the project going.

Chairman Tanner: OK. Questions from the Board for the applicant and for County as well? Since we don't have any questions right away, we'll have public testimony for any of those who would like to speak on this agenda item. You'll have three minutes to do so. Just come up to the podium and state your name. Don't be shy. OK. I've got . . . if the County representative could just kind of give us a little bit of the staff analysis of their position on this?

Mr. Jarvis Chun: I'm Jarvis Chun, Supervising Building Plans Examiner with DSA. The permit was issued in 2012. Most of the permits were issued . . . I guess all of them were issued in 2012. I would say the good thing is that the developer stepped up, and he's seeking the correct avenue on the County Code-wise to seeking this extension. So I must applaud them for that.

Chairman Tanner: Not everyone does that.

Mr. Chun: Well, everybody tries to get through in different means, but this is the second attempt. The only thing I would ask of the Board is to clearly state when the time . . . if you guys do entertain and actually approve a time extension, set the time . . . set the exact time when this time extension starts or would start: the hearing date or any other date that you guys choose.

Chairman Tanner: OK. Thank you. Board, questions?

Mr. Ray Shimabuku: Yeah. So that would include the end timeframe as well or just the start time?

Mr. Chun: I think that's up to the Board. Yeah, I think if you look at the application, they're asking for a three-year window. I believe the previous one was two years.

Mr. Chad Fukunaga: Again, to clarify that, so three years to start construction, and to continue construction, and not have any suspensions of work?

Mr. Chun: I think the three years was to complete the project. The applicant can clarify if it's . . .

Chairman Tanner: Yeah, Rick, if you would kinda give us an idea of what you're looking for?

Mr. Papa: So the last time we came to the Board, they were only three permits that had actually . . . were gonna expire, and had been subsequently applied for extensions through the normal process, and they were Buildings 10, 11, and 12. And we were just asking for a two-year extension to be able to start . . . restart work. And it just was sort of an outside number. We didn't know where the market was, and things were happening, but again, we submitted the request three months prior to actually getting the hearing date. So in those three months before we came to you guys, we actually made a lot of progress with the subcontractors. And I was able to come here and say we were real confident that we would start within the next . . . I said three to six months, and you guys gave us a year extension, I believe. And we started within six months. And we actually started twice as much work as we came and requested for the extension. We are optimistic that we'll finish the project in three years. But if we're only gonna come back to you guys this one time, then we would ask for three years to keep that . . . to start the last building within three years of today.

Mr. Chun: Chair?

Chairman Tanner: Yes?

Mr. Chun: I believe the previous BVA was a little . . . was different. The permits were expired.

Mr. Papa: Well, technically, these permits are expired too because . . .

Mr. Chun: We gave you a time extension on these?

Mr. Papa: On these permits, what happened is, is when we knew that they were gonna expire, we submitted to get a hearing date. And then it . . . you know, we can't get it tomorrow. So in that timeline, I think our permits have technically on paper expired, but we've been working with the Building Department and everybody. And they said, well, we haven't expired them on DSA side. So they're still out there.

Mr. Chun: I believe we sent a letter and the expiration date, we gave you another year to May 20th, 2014. So actually my understanding of the project the permits are still active. They're just coming in to ask for . . . they know they may run into trouble later. They're not sure which building, correct me.

Mr. Papa: Correct. If it's in one year, I would imagine a calculated analysis, there'll be six buildings that we won't start within that one . . . the next one year.

Chairman Tanner: Yeah.

Mr. Papa: That would be at risk.

Chairman Tanner: OK.

Mr. Papa: And we've had some conversations with DSA that if they had the year . . . if we can finish in a year, then we wouldn't need the variance. But we can't guarantee that we'll start the remaining nine buildings within the next year. Our goal, as the developer, is to be completed in the next three years.

Ms. Jacqueline Haraguchi: How realistic is that?

Mr. Papa: Right now it's fairly realistic, but who knows what happens next year. In the last month, interest rates have increased. But the project has been well received. People like the product. The tough part is it takes ten months to build the buildings. And we end up selling a little bit in advance and that helps because that gives our investors confidence to continue and release more buildings. We are having a problem right now with the fact that we have all this work. And we have our other project down the street, Ko'olea Terrace, which has been fully released. So we'll complete the last of 174 units the first quarter of next year. And there's some other projects that have been released on Maui. And our contractors that are small are having problems being in three places at once. So all of these things are sort of weighing in our time window. And the first couple buildings that we're working on, our buyers are just waiting for us to finish. I mean, it's a good thing, but again,

it's sort of all or none, feast or famine here.

Chairman Tanner: OK. Any other questions from the Board?

Mr. Shimabuku: I wanted to get something cleared. Jarvis, you were was saying that the permits would be good until May of 2014. With this extension of three years, would it be after that 2014 date, or we can start it now?

Mr. Chun: It would be the pleasure of the Board, yeah?

Chairman Tanner: If we grant years, would the three years start now, or would the three years after this current one expires which is another year?

Mr. Shimabuku: So actually you're looking at a four-year timeframe.

Chairman Tanner: Yeah, would be four years.

Mr. Papa: Just to clarify what we're asking for is a total of three years to start the last building.

Chairman Tanner: So three years from now.

Mr. Papa: Three years from now or if, in essence, May is close enough, but if we have one year right now and everything till 2014, call it May or June, and it extended two years beyond that, that would fall within our . . . (inaudible) . . . as well.

Chairman Tanner: OK.

Ms. Kapua`ala: Excuse me, Mr. Chair? I just wanted to put this on the record. This is the last approval by the Board, the conditions previously approved to the applicant where that the subject project shall commence construction within 180 days from the date of the variance approval, and shall complete construction within two years from the construction commencement date.

Mr. Bart Santiago: That was for the six buildings initially, right?

Mr. Papa: . . . (inaudible) . . . three . . . (inaudible) . . .

Mr. Santiago: Oh, the three. OK. So now you're requesting a variance for the full project. It's extended to three years so that the full project can be completed within four years, essentially.

Mr. Papa: The six that are under construction right now, they're fine. We don't need any variance on those. It's the remaining 12 that we would need the variance for. Because when we came in the last time, the ones . . . these remaining 12 units or 15 units, the permit hadn't expired yet for those. We're at the end of the second extension. We were only dealing with the ones: 10, 11, and 12 at that point. So in essence, the ones that . . . the extra six that are under construction was part of the first three that we came here with. They're fine because we can continue to work and we'll complete them by the middle of next year. It's the remaining 12 that with the one-year extension of the existing permits, there's a possibility that half of those 12, we won't get to start and finish

within that one-year period.

Mr. Santiago: I guess if I can get this clarified? You've already gotten a one-year extension to make . . . or to this year, right? So you want another three years beyond?

Mr. Papa: I only need three years total from call it today.

Mr. Santiago: OK.

Chairman Tanner: Yeah, I think to make it simple just call it today.

Mr. Santiago: Today, yeah.

Mr. Fukunaga: And that's to start construction, right? Not to . . . not full build-out.

Mr. Papa: To start construction, correct, because once we start, then the permit remains active until we're done the building. The issue we had with 10, 11, and 12 is we started the foundation work and then the market just dropped out from under everybody. And we didn't have the ability to go vertical but yet the clock was ticking on the permits. When you can't show any work, then you reach your 180 days, the permit essentially would expire. So we went through the process. We extended for a 180-day extension and went through that process. And then again, since we were on hiatus for over a year plus, the permits were subject to expire.

Mr. Santiago: Just a question: most of these are owner/occupied units?

Mr. Papa: Correct. At every sales release, we are required to do a 50% owner/occupant requirement. However, in this project, of the 41 units that are occupied, the vast majority of them are owner/occupant units.

Ms. Haraguchi: What is the vast majority percentage?

Mr. Papa: I would say 85%.

Mr. Fukunaga: Can I ask what would happen if you are not granted the variance? Would you redo your plans and reapply?

Mr. Papa: We probably wouldn't redo the plans, necessarily, but we would be required to resubmit and re-permit whatever buildings don't have an active permit. So it would force us to go back through the process of plan review. We currently meet all the current electrical/plumbing codes, structural codes, that are out there. The one possible issue with the new code is the hurricane-resistant glass. And on the Big Island, it's not a wind requirement, but in Maui County, there hasn't really been an official ruling. That would drastically affect the cost of the project. Just on the cost of the windows, it would double the cost, if not, triple the cost.

Chairman Tanner: Yeah, easily, double it.

Mr. Papa: And then there's some other requirements that we would have to add to the project that

aren't part of the existing project. And as we fight costs, a lot of what developers do in these projects that drag on, they're just trying to get out of the project. So we've already written down the cost of the land and we got . . . started building when we could sell the unit for what it cost to build it, and cover any additional overhead. And you wanna finish the project and we're required to finish the project within ten years of the start for the condo statute. So it's not the end of the world, but it would definitely take the project track from going building-by-building to stoppage, and then we'd have to resubmit for new plans, and see where we need to make changes, and see where all the numbers then come out.

Mr. Fukunaga: So for the structures that are already built, you have a lot of occupants, I guess, live-in residents?

Mr. Papa: There's 41 units that have been completed and 39 of them are actively occupied. And the two that aren't are a sales office and one model.

Mr. Fukunaga: And I imagine you have an association which governs the . . . ?

Mr. Papa: We have an active association that manages the existing 41 units.

Mr. Fukunaga: So if the other buildings don't move forward, how does that impact the association?

Mr. Papa: It would increase their maintenance fees and raise the general cost of the community because everything's prorated over the total amount of units. There's 103 units planned. If we only finish 41, then it's almost a 150% increase in the maintenance fees, but again, that's not the . . . I mean, at this point, we're on track to build this project out within the next three years.

Chairman Tanner: Jarvis, I understand there's potentially some changes coming with regard to the length of time permits are issued for in the future. Can you tell us a little bit about that?

Mr. Chun: In March of 2012, we adopted a new Building Code. And we modified the time extension requirements. That's why they are coming in under their . . . I hate to say "grandfathered" or "nonconforming" under that. Their permit is under the 1997 Uniformed Building Code. So what we did was there is a five-year overall from permit issuance/completion. So staff did not want to go into this every 180-day letter or correspondence back and forth with a lot of people especially with what we've learned with this downturn, yeah, this recession. So that was one thing that they needed to initiate construction within a year and complete the project within five. So that'll . . . hate to say, cut down . . . we wanted to cut down on our paperwork. If you didn't complete it in five years, your project is dead.

Chairman Tanner: OK. Thank you. Any other questions from the Board?

Mr. G. Clark Abbott: Yes. If the three-year variance is granted, that, in effect, releases you from any new permits or requirements, per se, windows, whatever for the future of the project? In other words, you can slide by with what the building requirements were from 1997 or what is now?

Mr. Papa: We're subject to whatever the current Plumbing Code and Electrical Code are at the time we actually pull the permit and start that work. So right now, we meet the 2006 Plumbing/Electrical

Code as we pull our active permits on these buildings. If the Electrical Code changes, Plumbing changes next year or the year after, it's all timed. We meet whatever that cost is. And we meet whatever that requirement is. The Building Code is what we're "grandfathered" in. However, when we release these latest six buildings, our structural engineer said, "I'm gonna re-draw the drawings and I'm gonna meet the current structural requirements." So we went through that process. We bore that cost. There's only a couple other minor changes like with insulation, but really it's the impact resistant glass that's the hurdle.

Chairman Tanner: And that's something that you anticipate could happen coming up?

Mr. Papa: It's currently part of the code right now.

Chairman Tanner: But not the hurricane? It's just the . . .

Mr. Papa: Well, the hurricane is a requirement. If you submit for plans today, you'd be required to meet the impact resistant glass statute or requirement.

Chairman Tanner: Right. OK. Any more questions from the Board?

Ms. Haraguchi: Well, I just wanna disclose something that I am a resident of Kehalani Community Association. I don't think that it'll hurt for me to make a decision with this or hurt anyone else, but if someone feels that I need to recuse myself, then I will. I'll leave that up to the attorney.

Mr. Papa: And just to clarify, the Villas is part of a Kehalani Master Planned Community which at plan build-out is about 2,400 homes. It's about 1,400 completed to date. The Villas is one community within the total master planned community.

Chairman Tanner: OK. If there are no further questions, we'll entertain a motion.

Mr. Howard S. K. Kihune: Mr. Chair, I make a motion that we extend and approve the variance for three years, but I'd like to see a date put on it whether it be the date of the hearing, or August 1st, or whatever date would be depended upon the Committee/Board.

Chairman Tanner: So to clarify, you'd make a motion to approve the variance for three years, but what was the date you're looking for?

Mr. Kihune: Just a date that we set as a Board whether it be August 1st that we start, or the date of this hearing, or consensus among the Board, amongst the Board.

Chairman Tanner: Oh, I see. OK. So would I have a friendly amendment as to a date to begin?

Mr. James Giroux: You might wanna ask what's easier to administrate.

Chairman Tanner: A very good question. What would be, from the Planning Department, what would be the easiest to administer or to administrate?

Ms. Kapua`ala: I would defer to Jarvis. I think he would be a better enforcement officer.

Mr. Chun: Rick, correct me if I'm wrong, but the previous one was from the hearing date?

Mr. Papa: Correct.

Mr. Chun: That'll be the easiest.

Chairman Tanner: OK. So we'll go from the hearing date which is today. Would it be . . . I don't know if this is a case where it would be appropriate to have the hold harmless agreement and the insurance? Well, certainly, the hold harmless agreement.

Ms. Kapua`ala: The last approval had no hold harmless or insurance requirement. It's . . . I'm not sure how that affects the County as far as liability.

Mr. Giroux: Just the attorney jumping in. Just the issue of the glass, I would say that that does expose the County to sum question of liability. So I'm sure that they're already carrying a million-dollar insurance, so I think tagging it onto their construction bonding or whatever that they're already carrying probably won't hurt.

Chairman Tanner: So a hold harmless and an additionally insured.

Mr. Santiago: I concur.

Chairman Tanner: OK. So I'll let you restate the motion.

Mr. Kihune: Motion to accept the variance for a three-year extension on permits with the date commencing on the date of this hearing, and a hold harmless and a liability in place to protect the County.

Chairman Tanner: OK. Do I have a second?

Mr. Teddy Espeleta: Second.

Chairman Tanner: OK. We have a motion and a second. Any further discussion?

Mr. Fukunaga: Chair, I'd just like to clarify that that three-year extension is for start of construction or to complete all construction?

Chairman Tanner: Start of construction.

Mr. Fukunaga: OK.

Mr. Kihune: I wanna say one thing real quick. And I appreciate Rick being here. I think it's great that we can move forward and complete this project. It shows dedication and also a confidence from the development company itself, their commitment. So I think it's good we can finish this up. I know the world got hurt pretty hard with this last recession we had so that's good. And I'm pretty sure Jackie would like to have some more neighbors. (Laughter)

Chairman Tanner: Before I call for a vote, Trisha, you have something?

Ms. Kapua`ala: Just for the record, could you please clarify the amount of insurance requirement so that it can be clear on the final decision and order?

Chairman Tanner: Was it a one-million?

Mr. Kihune: One million.

Chairman Tanner: One million.

Ms. Kapua`ala: Thank you.

Chairman Tanner: OK. We have a motion and a second. Unless there's any further discussion, I'll call for a vote. All those in favor? Any opposed?

It was moved by Mr. Kihune, seconded by Mr. Espeleta, then

VOTED: To accept the variance for a three-year extension on permits with the date commencing on the date of this hearing, and a hold harmless and a one-million dollar liability insurance in place to protect the County.

(Assenting: H. Kihune, T. Espeleta, R. Shimabuku, J. Haraguchi, C. Fukunaga, B. Santiago.)

(Dissenting: G. Abbott.)

(Excused: P. De Ponte.)

Chairman Tanner: We have one opposed. **And the variance is granted.** Thank you very much.

Mr. Papa: Could I just thank the Board and thank the department for working with us throughout the course of this process? And then who will we work with on the hold harmless agreement and the million dollars? I think our policy is more than that anyway so it should be OK.

Chairman Tanner: Well, it shouldn't be a problem, then.

Mr. Papa: OK. Thank you.

Chairman Tanner: Thank you. OK, if staff could read the next item of the agenda?

- 2. ARMSTRONG HOMES, LTD. requesting to amend the conditions of approval for the Kalama Heights Senior Residential Community, Phase II variance (97-BVA-30): (1) To allow 40 affordable, for-sale, senior-preference condominiums, whereas 80 senior assisted living units were previously approved; (2) To allow the reduction of floor area from the previously approved 63,577 square feet to 51,200 square feet, whereby a 54 percent floor area-lot area ratio was previously approved, thereby exceeding the FAR by 4 percent, and (3) To delete the previously approved variance of one (1) stall per**

unit, whereby the required two (2) parking stalls per unit will be provided, for property located at 101 Kanani Road, Kihei, Maui, Hawaii; TMK: (2) 3-9-017:002 (97-BVA-30).

Ms. Kapua`ala read the agenda item into the record.

Ms. Kapua`ala: The applicant has a power point presentation that I think will . . .

Chairman Tanner: If I could have the applicant come up and speak your name into the microphone for the record?

Mr. Wayne Morioka: Thank you, Mr. Chair, my name is Wayne Morioka and I am vice-president of Armstrong Homes, Limited, the owner of the property. And also here is Daniel Sandomire. And Daniel will be our development project manager for this project.

Chairman Tanner: OK. Are you agreeable to waiving the reading of the staff report?

Mr. Morioka: Yes, I am.

Chairman Tanner: OK, so for the record. And we'll go forward with the presentation.

Mr. Morioka: Thank you very much. First, I'd like to thank Chair, Vice-Chair, and Members of the Board for the opportunity to present our request to amend the conditions of an already existing variance for the property. I'd also like to thank the Planning Department and staff for working with us in coming up with such a thorough and clear report on what we're asking for, and why we're asking for it, and also what they recommend. I'm not gonna repeat all the things that are in our motion or in the report, but I just wanna hit some highlights to make sure that the Board is fully informed as to where this project is, what we'd like to do, and why we actually need an amendment to the existing variance.

The location is in South Kihei. It's at the corner of Kanani Road and Kanoe Street. It's approximately a very short block from Cove Beach. The parcel that we're dealing with is considered or was considered Phase II of the Kalama Heights Senior Residential Community. So just mauka of this property is an existing assisted living facility for senior residents. The parcel that we're dealing with is just makai of that. Here is Cove Beach. And this is South Kihei Road. So if everyone is oriented? I'm not totally familiar with the history of this parcel. Armstrong Homes bought the parcel and the project a few years ago from Betsill and its partner. And so what had come before in terms of the first variance, you know, we're trying to figure out by looking through the paperwork. But what I'd like to focus on instead is what we're trying to do and why we're asking for the amendment.

The parcel is shaded in, I guess, it used to be yellow but on this it looks very green. The parcel wrapping around it is Phase I of the senior residential community. To the side of us . . . I'm sorry. Let me go back to this one. To this side of us, although it's part of Phase I of the project, is an improved drainageway which is open and will remain open. To the mauka side of us, I guess, to the east, this is to the north, this is to the east, the mauka side is the parking lot and landscaped area just to the makai side of the building. So all of this is open area, landscaped, and parking.

This is the drainageway that's improved and will remain open.

This is our site plan. What we are hoping to do is 40 units. And it'll be in basically, an L-shaped building, three stories. And the reason we chose this configuration . . . we looked at all different ways of doing this project. And what this allowed us to do was to get as much building off . . . separated from Kanani Road so as you're coming down Kanani Road, you don't have a wall of building going all along the road. So as you can see here, this is the only portion of the building that comes anywhere near Kanani Road, which is a major thoroughfare. We have a landscaped buffer running along the edge. We have open parking with landscaping, and then a community center on the corner of Kanoe Street and Kanani Road with a landscaping buffer around that. We think this is a tremendous addition to the neighborhood. And it doesn't create a valley of building along the main road. What this configuration also allows us to do is to have enough stalls so that we're not imposing on our neighbors where residents and guests are parking all over the street. The prior existing variance was for one parking stall per unit. We are providing two parking stalls per unit, plus we're providing 10% guest parking. And what that allows us to do that is concentrate the apartments in this building here and preserve as much parking area and open space around us.

One thing that Trisha did mention, but I'd like to highlight is, we are proposing to do this as a hundred percent affordable project under the Workforce Housing Ordinance. We are gonna cover our own projects, 25% affordable housing requirement onsite. We're not asking for any exemption from anyone for that. We are also going to work with trying to get as many seniors into this affordable housing, independent living affordable housing, as possible. We're defining seniors as 50 years or older. And that's in accord with AARP guidelines. So two things you gotta qualify for: you have to be 50 or over, and you have to qualify according to the County's affordable housing guidelines. And then people will be eligible. It'll be senior preferenced. We're gonna try to fill the residences with all seniors. If it's not possible, then after a period of time, then it'll be open to the public on an affordable basis.

This is a rendering, a computer rendering, to try to show how we're envisioning the project to look. And so again, Kanani Road, Kanoe Street, open drainageway, the senior living facility up above. This is our proposed three-story building: 40 two-bedroom/two bath units; approximately 850 square feet, interior space; with a lanai of about 90 square feet; one one-bedroom/one bath unit. And the reason it's one bedroom is it's right above the elevator and mail lobby area. And that will be approximately 620 square feet with a 26 square foot lanai. We have the lanais facing as much as possible toward open space and maybe a little bit of gap view down the opening of Kanani Road into the Cove Beach area.

This is another view from street level. This is looking from makai looking mauka. And as I said earlier, you can see how much open this area is compared to if we had lined the building all along Kanani Road. And then having the community center down at the bottom creates a nice corner feature that I think adds to the appearance of the neighborhood.

Why are we here? There's an existing variance that had been gotten when Betsill still owned the property. It allowed for three stories. We are asking you to keep that and allow it to apply to the project that we're proposing which is slightly different. That's why we need a variance. The variance that Betsill got had the typical wording in it saying "This shall only apply to the project specifically described when we granted the variance." Now that we're changing it a little, we're

going to independent senior living instead of assisted senior living. Since we're going with 40 units instead of 80, it seemed to be the prudent thing to come and ask you folks to please continue the variance, but change it so that it applies to our project. Three stories, we're asking you to keep.

The second thing that they got was one parking stall per unit. We don't need that anymore. As I mentioned earlier, we're providing the required number of parking stalls and more. So we don't need that one.

The last thing that they got was a variance that allowed them to go up to 63,577 square feet, approximately, that number. We are only gonna go to 51,200 square feet which is approximately, 19 ½% less square footage than what was already approved for Betsill. They did need more in a way because they were doing 80 units, and they were doing a lot of common facilities: dining, common kitchen, common recreation room, common library, common rooms for therapists and service providers for their residents. Here, because we're doing independent living, we built that into the apartments. You know, every apartment has its own kitchen, every apartment has its own living area for entertainment. The only common facilities we do are the pool, and shower and bathroom area, and the community center, and then the lobby, mailbox area, and then a property manager's office. So those are the only common areas. So that allows us to come in to you and ask that you continue to . . . you let the variance apply to our project, and we think we're asking for less than what was already approved in terms of square footage and in terms of exemption from parking requirements.

To summarize, three-story building height, this is what was already approved. We are requesting that it be kept the same. This is what was approved in terms of floor area. We're asking for less. It is still above the FAR limit for this property. However, it's less square footage by about 19 ½% than what was already approved. And then we're saying we do not need an exemption from parking requirements, so that provision can be deleted.

Chairman Tanner: Alright. Thank you. Do we have any questions from the Board?

Mr. Shimabuku: I have a question. Is this is a private-funded project or is it Federal, State, or County-funded?

Mr. Morioka: It's totally private-funded. It's very hard to do. And we're basically doing it to break even, if possible, and get some affordable credits, which makes it possible to justify doing the project.

Mr. Santiago: What is the price range for the units?

Mr. Morioka: That's all determined by the County guidelines. What it does is every year, the County comes out with guidelines based on income. And we will be providing for 80 to 100% of median income. Another category would be 100 to 120% of median income. Another category would be 120 to 140. And the last one, 140 to 160. All that's based on is median income on Maui, except for Hana. And the County, every year, sets how much you make if you're one or two percent household or more, how much you make, and you qualify. So you have to qualify by not making too much. Every year that changes. Then once you fall into that category, the County sets the price range that's possible. Actually, it's a price limit, the maximum price limit, based on what the

mortgage interest rates are at the time. So I believe right now it is based on 4.5%. Based on that, I believe the price range starts in . . . I think it was in the twos, high twos. And then could actually go quite a way up, but at the time we're looking at it, the market didn't support the higher prices, so we kinda figured that we'd probably not really sell too high into the 140 to 160 percentile range. So probably starting in the low twos going into fours.

Mr. Santiago: Is this your first project on the island?

Mr. Morioka: No. We're affiliated with Armstrong Builders. We have an office in Kihei. We've been here for . . . I don't know, since probably about 2004? We've even done projects before that as a construction company. In terms of developments, we've done Kaimalu at Wailea which was 150 homes in Wailea on a parcel that's kinda next to the Blue Golf Course. We also are doing currently a DHHL project. We're doing scattered lots. We're doing turnkey homes on an affordable basis for DHHL beneficiaries. Several in the Waiehu Kou Subdivision, and then a number in Kula Phase I, and also Kula Hikina. And that, we're doing . . . So far we've done how many homes?

Mr. Daniel Sandomire: Twenty-six in this phase.

Mr. Morioka: Twenty-six in this phase with a possible nine more lots coming up. And those are turnkey affordable homes that we've done. We've done numerous residential and commercial construction projects on Maui as Armstrong Builders.

Chairman Tanner: Trisha, do we have any letters of support or opposition to the project or the variance?

Ms. Kapua`ala: The Board might've received the letter, the one letter that we received. It says "The Shores of Maui." It's not necessarily in support or opposition, but it does have a request of the Board that the developers not start construction on the project before 7:00 a.m. I'd like to also comment that this project does need to go before the Planning Commission. And as a part of their review process, they also put this type of condition. So our Planning Director is here and he staffs the Planning Commission on a regular basis. He can comment on that.

Mr. William Spence: Good afternoon, Board Members. Yeah, that kinda thing is typical of what would be applied to an SMA permit. You can put that on if you would like, but it would be redundant with something that would be under the Planning Commission's purview.

Chairman Tanner: Yeah, I don't think that's something that we would like to include in a variance as a stipulation. Again, it would be redundant and there's already . . . OK. Before we move to public testimony, any other questions from the Board?

Mr. Fukunaga: I have a question. Wayne, so I believe there's some other apartment-type buildings surrounding your project, and some of them may even be three stories or more. Would you be able to point that out to us?

Mr. Morioka: Sure. This is probably the best one. The senior . . . Let me try again. The senior living . . . assisted living facility here is a combination of two-story and three-story. The land slopes from high down toward low. And as it gets lower, it goes from two-story and there's a significant

portion of three-story right there. This project is nice condo project. It does line the street which is why we didn't wanna do the same thing on the other side. That is a three-story product, building product. In front of us on the makai side is a two-story apartment building. And those . . . And here is a multi story. I can't remember exactly how many. I'm guessing eight-story or more apartment building. Someone who really knows the area can supplement the answer.

Ms. Kapua`ala: The parcel is highlighted in yellow. And let's zoom in. Five stories. And let's go to the Kalama Heights Phase I Project. Phase III. OK. Three stories here and two stories here. This must be A-2 zoned. All of these, A-2 zoned, which allows for higher densities and building heights. And across the street towards the ocean. Let's get a different view. This is from the ocean looking mauka and across the street from the subject property.

Mr. Morioka: Thanks, Trisha. Also, the three-story condo project, the one I said across the street, we have been in contact with the president of the board who called to ask some questions on behalf of his board members and I guess other residents. And we tried to answer the questions as best we could. I have not heard of any opposition to our motion from that condo association. They actually like the fact that we're adding value to the neighborhood and trying to do it in a way that makes things look good and open.

Mr. Abbott: Question: what was your purpose in general from switching it from one type of project to the other?

Mr. Morioka: We don't know exactly why but the prior owner had planned to do assisted living which is the same thing as the one above. For some business reasons, which I'm not privy to, they decided that was not the way to go, and that's why they didn't do the project. When they sold it to us, they actually had a plan to change the project from assisted living to senior market condos. And I think they were thinking about 36 or so large, expensive, senior market condos. And so my guess is, the senior . . . assisted senior living facility probably serves the existing demand. And what they thought might be additional demand, they probably decided wasn't there. So they actually were already thinking of changing it to a for sale product targeting seniors. At that time in a rising market, they were looking for big, luxurious units and high prices. The market fell. They abandoned that concept as well. And we came in buying it. And from the time we bought it, and we were lucky, we got the property at a good enough price because it was in a down market that we could consider doing a hundred percent affordable senior project. And this is the first time that that became a possibility.

Mr. Abbott: Thank you.

Mr. Morioka: Sure.

Chairman Tanner: Any other questions from the Board? OK. We'll open up to public hearing now. So for all of those who like to speak, again, you have three minutes. Please state your name into the microphone for the record.

Mr. Steve Goldsmith: Aloha, good afternoon, my name is Steve Goldsmith. I'm the treasurer of the Hale Kanani Board that they were pointing out just to the south, not the president. I had a great conversation with Wayne. I am the point of contact and have been with Armstrong and with Betsill

over the last year and have a good relationship with them.

Just as a disclosure, I'm speaking here as one of 72 owners. I'm not speaking here for the board, but I do have the knowledge of the board. I did speak to Wayne. I did speak to the County. And I did bring this before our last board meeting and got some feedback from them. And there's some other owners here, too, also today.

But briefly, basically, a thumbs up for the project. It's much better than what Betsill had designed as Wayne had said. There were units right along Kanani Road which are really gonna be ugly. There's gonna a whole wall on Kanani. So basically, we like all three points: the fact that they went down to 40 units, that they now have adequate parking. I wasn't sure at my last phone call. That was one reason to be here, but as long as they have 10% guest parking, then that should be enough for the 40 units that it won't affect the street because there's very limited street parking right there.

And I don't know if this is the appropriate Board, but as Wayne had said, it's a major thoroughfare, Kanani. And a normal street to this, too, but basically on the street itself, right now they're coming out on Kanani. And I didn't discuss this with you because it just came up afterwards came up that many people would prefer that they have the access on Kanoe rather than Kanani. Right now, the police station's gonna be opening. They're about to put in a traffic . . . (inaudible) . . . because we have so many speeders as it is now going down there. There are traffic issues already and it's just clearly when the police station that it'll really become an issue. It's a major thoroughfare between the police station and South Kihei Road. I imagine there's gonna be . . . (inaudible) . . . right down there.

So we like the project. We like what they're doing. Some good news: the last unit just sold for \$475,000, a two-bedroom. So we just made some more money today or at least a higher unit, anyway. Our concern is traffic and impact. So if you could address that in anyway, suggest, or . . . I do have some pictures from Kanoe where it is. It's still at street level so there's not elevation issues where they have their pool. Oh, actually, that was in their power point. So this is Kanani going down towards the ocean. Just around to the right is where their swimming pool was, and then just past that was where the parking was. And it might possibly be able to redesign where you exit Kanoe rather than Kanani. And I don't know if you have any questions or . . . OK. Thank you for your time.

Mr. Shimabuku: I'm sorry. I have a question. Where is your entry into your . . . ?

Mr. Goldsmith: Good question. That's a factor also. If you look . . . looking up the street up right there . . . So Hale Kanani is Building 1, 2, 3, and 4. Right between 2 and 3, we have access to Kanani Road right here. We have a guest parking lot and a couple units right here. Another driveway here. This is where all their parking comes out of Phase I. They're putting in a new street County traffic device and a crosswalk here. They put one up here by mistake. They already installed it in the middle of the block and further up that . . . (inaudible) . . . And what we're suggesting is rather than coming here which is right across . . . (inaudible) . . . This is a left turn lane right into our project here right where they're trying to come out. It's really a mess because there's a left turn here. Here's our entrance right here between Building 3 and 2. That's looking south right now. So if you can do like a 180 or back out to Kanani. You see cars parked right here.

So we turn left here and it's already a zigzag as you're coming down Kanani Road speeding. And there's been some issues, some rear-ending here, and stuff as it is. So the developer wants to come out right here. And we're just concerned about that for safety.

Chairman Tanner: Yeah. I think you bring up a good point. For the purposes of this variance, though, it's not something that we can consider on that, but certainly, something that others will look at.

Mr. Goldsmith: Then basically, thumbs up.

Chairman Tanner: Alright. Any questions for that . . . ?

Mr. Morioka: I'd just like to say that we appreciate the cooperation and the comments we've received. And we'll consider that. We're not sure if it's possible, but we will consider it. And I believe you're right that it would be addressed at the SMA time.

Chairman Tanner: Thank you. Alright. Moving on with public testimony, next individual please?

Mr. Norman Becker: My name is Norman Becker. I live in Hale Kanani right across the street from where they're proposing this. My question comes down to the fact that we have a number of owners who are upside down on their loans like everybody else in different areas. We're just now starting to recover as far as prices are concerned in our complex. And if this unit goes . . . this complex goes in at \$200,000, even on the high end of \$200,000, it's going to start to bring down the value of our place, me and our complex really. And I just have some question about where they're going to go. And how are they going to limit to 50-year-olds, or at what point do they stop taking 50-year-old applications or buyers and start going to the younger set? And will it be classified non-rental or long term rental rather than short-term?

Chairman Tanner: Right. I think for the purposes of your comments, certainly, you'd probably agree that 40 is better than 80.

Mr. Becker: Yes, I agree, totally, but if it's \$250,000 to \$300,000 units or complex per condo, it's going to start bringing our place down as far as value is concerned because people that are starting to buy ours now have a potential of earning income. If it starts coming back down, we're gonna be lost again.

Chairman Tanner: If the applicant would like to speak to those concerns, I'll allow that.

Mr. Morioka: Norman, thank you so much for your comments and questions. I think I wasn't clear. And let me try to clarify. The price range will be something under \$300,000 and the twos to start. In order to buy a unit at that price, you will have to qualify under the Department of Housing and Human Concerns' guidelines to have 80 to 100% of median income for Maui. So not anybody can buy it at under \$300,000. You will basically have to have very limited income to qualify to buy a unit at that price. Each successive tier of higher median income will get higher pricing commensurate with the amount of money people are making, and only those people can buy those units. If you get up to the 140 to 160% of median income, the price range can go way over \$400,000, close to \$500,000 under the current guidelines. And we just thought the market wasn't there, and it wouldn't

be fair to set prices that high, but thanks to what Steve said today, it may be that we can set some pricing in the 140 to 160% of median income category as well as for this project. The range of pricing will be there, but a lot of the people who buy into your project would not qualify because they have too much income to buy in our project because they won't qualify under the County restrictions on median income for the purpose of qualifying for the low prices. Does that help on that one?

Mr. Becker: It sounds to me like they're willing to sell for \$250,000 as long as you have people that qualify. Am I right?

Chairman Tanner: If I might for a second? And I'm not a Realtor. My wife happens to be and I work with a lot of Realtors. But if you've got somebody interested in buying your place and a Realtor has to pull comps. to get a comparative of the area to get a value for yours, I don't think they can pull a comp. from your place because of the special qualifications.

Mr. Morioka: I think they would look at the special restrictions and not deem it a valid comp.

Chairman Tanner: Right. It's not a comparable. So it shouldn't negatively impact yours because it's not the same product.

Mr. Becker: So you're saying that because they can't use his unit as a comp., no matter who's living there, or what the place looks like, it's just a blank wall? Nobody's gonna pay any attention to it?

Chairman Tanner: I'm not saying that. I'm saying from a value standpoint when they appraise the value of yours, they can't say, well, a unit in his project sold for this price; therefore, I can use that as a comparable. They can't because it's a low income qualified, and if yours isn't, then it's not a comparable anymore. I'm not saying that that project being next to yours would not affect the value of your property. That's not what I'm saying.

Mr. Becker: Thank you.

Mr. Morioka: And then to answer your other question, this is not an area . . . or this parcel is not zoned to allow vacation rentals. So it would not . . . people would not be allowed to do short-term rentals. Also, if you qualify under the Department of Housing and Human Concerns' guidelines, the buyer has to be an occupant of the unit that they're getting at a special price. So I don't think vacation rentals will be a concern.

Chairman Tanner: OK. Question?

Mr. Abbott: Point of interest: is your project, Wayne . . . I don't know how quite to phrase this but is it going to have a homeowners association? Are there going to be monthly dues or is it just a fee simple mortgage?

Mr. Morioka: There will likely be an association. And there will likely be maintenance fees to cover common area expenses. So there will be rules and regulations, things that the association has to take care of: common areas, an elevator, mail boxes, a community center, a parking lot, general landscaping. That will all be association responsibilities and the owners will have to contribute for maintenance fees.

Mr. Abbott: So there'll be a set schedule per unit, let's say?

Mr. Morioka: Yes.

Mr. Abbott: "X" number of dollars per unit per month?

Mr. Morioka: Yes.

Mr. Abbott: As is the gentleman in his condominium?

Mr. Morioka: Yes.

Mr. Abbott: OK.

Mr. Morioka: I'm not sure but just looking at it, their condos look nice, and my guess is they might have a little bit higher maintenance fees than us as an affordable project would have, but the structure and the responsibility for maintenance, and upkeep, and so forth is the same.

Mr. Abbott: But your unit will be new.

Mr. Morioka: Yes, that's true.

Mr. Abbott: The repairs or maintenance upkeep will be considerably less than it would be for theirs.

Mr. Morioka: Yes, that's true.

Mr. Abbott: I'm just trying to find a level playing field here.

Ms. Haraguchi: What I wanna say is it's not actual low income housing. It's called workforce housing. It was created for the people that cannot afford market price homes. Low income is below 80%. So it's not low income housing. That's not what this is.

Mr. Morioka: Thank you.

Mr. Abbott: Thank you.

Chairman Tanner: OK. We've got a couple more on the list. If there's anybody else who would like to come up and speak? OK. Seeing none, I will close public testimony and continue with questions from the Board for the applicant.

Mr. Morioka: If it's alright, Mr. Chair, I'd just like to focus the Board's attention. This is on the Department of Planning's report and recommendation. On page 7, paragraph 12, and there's A, B, C, D, that's a real good summary of what we're requesting. And then on pages 8 and 9, under Recommendation, is a great comprehensive set of recommendations on the part of Department of Planning including conditions that should be imposed on us which we are agreeable to. So I just wanted to point that out before you folks go forward.

Chairman Tanner: Yeah, I think the department did a very extensive and thorough job in gathering information and presenting it in a very clear way to help the Board on this variance. So we'll continue with discussion and questions from the Board.

Mr. Shimabuku: I just wanted to make a comment. I think that was a good job by explaining what they just did. And I just wanted to say that with these recommendations, I would be in support of granting the variance.

Ms. Haraguchi: I'd like to say that I actually think it's a great project. I think it's one of the very few that I've seen that's completely under the Workforce Housing Bill and I wanna commend you on that, and I do support what you're trying to do here.

Mr. Morioka: Thank you very much.

Chairman Tanner: I'll give the Board a few minutes to look over that information that was pointed out and we can continue with questions for a few minutes.

Mr. Santiago: I have a question for Wayne. What would be the construction timeline to completion after you break ground on this?

Mr. Morioka: Give me just a sec. If we are successful in getting this Board's approval, our next step would be to get ready for SMA. We'd submit that in a couple months. It's typically an eight to nine-month process to go through SMA. And then after we get approval, hopefully, then we would go to market. And so that's probably 14 to 16 months out before we're actually breaking ground.

Mr. Santiago: And construction timeline would be?

Mr. Morioka: I'm gonna ask Daniel to comment on that.

Mr. Sandomire: So hopefully these are priced that they don't take 14 months, but just a couple of months. And then we start the construction with the permit. The build-out time would be approximately, 14 months. Yeah, hopefully, just under two years, actually.

Mr. Santiago: Two and half years, possibly?

Mr. Morioka: Yes.

Mr. Santiago: Alright.

Mr. Morioka: On the outside, but again, it's always in our interest to go as fast as we are able just because we foresee cost rising, and they will make the project harder and harder to do affordably.

Mr. Santiago: Thank you.

Chairman Tanner: OK, unless somebody needs more time or has further questions?

Mr. Abbott: A further comment: I think we really have to pay close attention to the egress to that

project because the entrance to that condominium on Kanani Street is gonna be a nightmare.

Chairman Tanner: I think you have a point, but I don't see where that . . .

Mr. Abbott: No, I'm just saying it has to be very . . . we've got to be very cautious with what we do approve.

Chairman Tanner: It's not part of that variance request at all, but I agree with you. I think it's something that they should continue to look at and determine if there's a better way to do it. And I'm sure Wayne will be doing that.

Mr. Kihune: Mr. Chairman, I think during the SMA process, the Committee will have time to voice your concern with regards to that. And I think they'll deal with it at that time.

Chairman Tanner: Yeah. OK, if there are no further questions, we're open for a motion.

Mr. Shimabuku: Mr. Chair, I'd like to entertain a motion to recommend the approval of the variance as stated by the department with the conditions set forth and agreed by the applicant. Also, to have that hold harmless and insurance, million-dollar insurance policy as well.

Mr. Morioka: . . . (inaudible) . . .

Mr. Santiago: In the recommendation, yeah, it's all covered.

Chairman Tanner: OK. So we have a motion to approve the variance as stated and the inclusion of a hold harmless agreement and one million-dollar additionally insured for Maui County. Do I have a second?

Mr. Abbott: I second.

Chairman Tanner: So we have a motion and a second. Further discussion?

Mr. Giroux: Just legal stuff. Just to clarify the motion, it's a motion to amend the conditions of the variance. That's just to clarify your motion as far as the motion to approve. The variance is actually a motion to grant a motion to amend the conditions of a variance. For the record, just legal jargon.

Chairman Tanner: OK. Further discussion?

Mr. Shimabuku: Well, that's what it says. Actually what it says here is to . . . the variance is to amend the motion.

Mr. Giroux: Amend the . . . yeah, yeah, yeah. So the original motion stands just with clarification.

Chairman Tanner: OK, at this time, I'll call for a vote. All those in favor? Any opposed?

It was moved by Mr. Shimabuku, seconded by Mr. Abbott, then

VOTED: To approve the variance as stated with the inclusion of a hold harmless agreement and a one million-dollar additionally insured for Maui County as clarified by the Corporation Counsel.

**(Assenting: R. Shimabuku, G. Abbott, H. Kihune, T. Espeleta,
J. Haraguchi, C. Fukunaga, B. Santiago.)
(Excused: P. De Ponte.)**

Chairman Tanner: **It's granted unanimously.** Thank you, Wayne.

Mr. Morioka: Thank you very much for your time, and consideration, and kind comments.

C. APPROVAL OF THE JUNE 27, 2013 MEETING MINUTES

Chairman Tanner: Next item on the agenda is the approval of the Board minutes for June 27, 2013. Do I have a motion to approve?

It was moved by Mr. Kihune, seconded by Mr. Santiago, then

VOTED: To approve the meeting minutes of June 27, 2013 as presented.

**(Assenting: H. Kihune, B. Santiago, R. Shimabuku, G. Abbott,
T. Espeleta, J. Haraguchi, C. Fukunaga.)
(Excused: P. De Ponte.)**

Chairman Tanner: **Motion is approved. The minutes are approved.** Motion to end the meeting?

Mr. Spence: Mr. Chairman, before we do that?

Chairman Tanner: Yes, sir?

Mr. Spence: I seldom come down and meet with the Board of Variances and Appeals, but I am at least occasionally coming down more often. What I would like to do . . . I'm Will Spence. I'm the Planning Director. What I would like to do, if it's OK, is I would like to introduce Mr. John Rapacz. He is . . . We've hired him as the Planning Program Administrator for Zoning and Enforcement. So whereas you used to see Mr. Aaron Shinmoto all the time, John is now taking that position. He is an inactive attorney. Once upon a time, he was a Deputy Corporation Counsel. And as part of that practice, he practiced administrative law. I asked him specifically about this Board. No, he had not served the BVA, but he used to come before Planning Commission, other boards and commissions to discuss various matters. So he's well versed in how the County works and how the Planning Department works. And you'll be seeing a lot more of him. Corporation Counsel is still the legal authority. And we look forward to working together with the Board, John, on the matters that come before you.

Chairman Tanner: Welcome, John. Thank you for being here.

D. DIRECTOR'S REPORT

1. Status Update on BVA's Contested Cases

E. NEXT MEETING DATE: Thursday, July 25, 2013

Chairman Tanner: OK, the next meeting date is Thursday, July 25th. Is that right, Trisha? Correct? OK.

F. ADJOURNMENT

There being no further business to come before the Board, the meeting adjourned at 2:53 p.m.

Respectfully submitted by,

TREMAINE K. BALBERDI
Secretary to Boards and Commissions II

RECORD OF ATTENDANCE

Members Present:

Rick Tanner, Chairman
Jacqueline Haraguchi, Vice-Chairman
Ray Shimabuku
Bart Santiago, Jr.
G. Clark Abbott
Teddy Espeleta
Howard S. K. Kihune
Chad Fukunaga

Members Excused:

Patrick De Ponte

Others:

William Spence, Planning Director, Planning Department
John Rapacz, Planning Program Administrator, Planning Department
Trisha Kapua`ala, Staff Planner, Planning Department
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